Google Inc. et al v. Egger et al Doc. 327

**UNITED STATES DISTRICT COURT**
**SOUTHERN DISTRICT OF NEW YORK**

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| CENTER FOR CONSTITUTIONAL RIGHTS,<br>TINA M. FOSTER, GITANJALI S. GUTIERREZ,<br>SEEMA AHMAD, MARIA LAHOOD,<br>RACHEL MEEROPOL,<br><br>Plaintiffs,<br><br>v.<br><br>GEORGE W. BUSH,<br>President of the United States;<br>NATIONAL SECURITY AGENCY,<br>LTG Keith B. Alexander, Director;<br>DEFENSE INTELLIGENCE AGENCY,<br>LTG Michael D. Maples, Director;<br>CENTRAL INTELLIGENCE AGENCY,<br>Porter J. Goss, Director;<br>DEPARTMENT OF HOMELAND SECURITY,<br>Michael Chertoff, Secretary;<br>FEDERAL BUREAU OF INVESTIGATION,<br>Robert S. Mueller III, Director<br>JOHN D. NEGROPONTE<br>Director of National Intelligence,<br><br>Defendants. | ) | Case No. 06-cv-313<br><br>Hon. Gerard E. Lynch |

**DEFENDANTS' MOTION TO DISMISS OR, IN THE ALTERNATIVE, FOR SUMMARY JUDGMENT**

Pursuant to Rules 12(b)(1), (b)(6), and 56 of the Federal Rules of Civil Procedure, Defendants, through their undersigned counsel, hereby move to dismiss this action or, in the alternative, for summary judgment. The bases for this motion are (1) that Plaintiffs cannot establish the requisite standing to bring this action, and (2) that the assertion of the military and state secrets privilege and other specified statutory privileges by the United States in this action requires the exclusion of state secrets relevant to the resolution of Plaintiffs' claims and that the unavailability of this information requires dismissal or the entry of summary judgment in favor

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of Defendants.

Defendants' arguments in support of this motion are set forth in the classified *in camera, ex parte* and unclassified versions of Defendants' Memorandum of Points and Authorities in Support of the United States' Assertion of the Military and State Secrets Privilege; and Defendants' Motion to Dismiss or, in the Alternative, Motion for Summary Judgment; and Defendants' Motion to Stay Consideration of Plaintiffs' Motion for Summary Judgment Memorandum of Points and Authorities, and in the declarations accompanying this motion, including those submitted for *in camera, ex parte* review. *See* Defendants' Notice of Lodging of *In Camera, Ex Parte* Materials.

Respectfully submitted,

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DATED: May 26, 2006